

Exhibit *A*

Gillian Cassell-Stiga

From: Connelly, Elizabeth (Law) [econnell@law.nyc.gov]
Sent: Friday, January 19, 2018 2:52 PM
To: Gillian Cassell-Stiga
Subject: Legend v. City settlement
Attachments: Legend settlement paperwork.pdf

Good afternoon:

Please see attached settlement paperwork for execution. Also note that the comptroller's office is requiring a W-9 for the plaintiff and plaintiff's firm.

Have a good weekend!

Elizabeth Connelly
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New York City Law Department
Special Federal Litigation Division
100 Church Street
New York, New York 10007
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econnell@law.nyc.gov

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

MELANIE LEGEND,

Plaintiff,

-against-

**STIPULATION AND
ORDER OF DISMISSAL**

17 CV 2159 (NGG)(VMS)

THE CITY OF NEW YORK, NEW YORK CITY POLICE
DEPARTMENT OFFICER ("P.O.") ROBERT
HESTERHAGEN (SHIELD # 7727), P.O. GARY LEITE
(SHIELD # 27464), and SERGEANT MICHAEL DICECCO
(SHIELD # 3303), in their individual capacities,

Defendants.

----- X

WHEREAS, the parties have reached a settlement agreement and now desire to resolve the remaining issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, that

1. The above-referenced action is hereby dismissed with prejudice; and

2. Notwithstanding the dismissal of this action in accordance with this agreement, the District Court shall continue to retain jurisdiction over this action for the purpose of enforcing the terms of the settlement agreement reached between the parties and set forth in the Stipulation of Settlement executed by the parties in this matter.

Dated: New York, New York
_____, 2018

BELDOCK LEVINE & HOFFMAN LLP
Attorneys for Plaintiff
99 Park Avenue, PH/26th Fl.
New York, NY 10016

By: _____
Gillian Cassell-Stiga
Attorney for Plaintiff

ZACHARY W. CARTER
Corporation Counsel of the
City of New York
*Attorney for Defendants City of New York,
DiCecco, Hesterhagen, and Leite*
100 Church Street, 3rd Floor
New York, New York 10007

By: _____
Elizabeth Connelly
Senior Counsel

SO ORDERED:

HON. NICHOLAS GARAUFIS
UNITED STATES DISTRICT JUDGE

Dated: _____, 2018

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

MELANIE LEGEND,

Plaintiff,

**STIPULATION OF
SETTLEMENT**

-against-

17 CV 2159 (NGG)(VMS)

THE CITY OF NEW YORK, NEW YORK CITY POLICE
DEPARTMENT OFFICER ("P.O.") ROBERT
HESTERHAGEN (SHIELD # 7727), P.O. GARY LEITE
(SHIELD # 27464), and SERGEANT MICHAEL DICECCO
(SHIELD # 3303), in their individual capacities,

Defendants.

-----X

WHEREAS, plaintiff commenced this action by filing a complaint on or about April 10, 2017, alleging that the defendants violated plaintiff's federal civil and state common law rights; and

WHEREAS, defendants City of New York, Michael DiCecco, Robert Hesterhagen, and Gary Leite have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability; and

WHEREAS, plaintiff has authorized her counsel to settle this matter on the terms set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed against defendants, with prejudice, and without costs, expenses, or attorneys' fees except as specified in paragraph "2" below.

2. Defendant City of New York hereby agrees to pay plaintiff Melanie Legend the sum of Twenty-Five Thousand (\$25,000.00) Dollars in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees. In consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against the defendants and to release defendants City of New York, Michael DiCecco, Robert Hesterhagen, and Gary Leite; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York or any entity represented by the Office of the Corporation Counsel, from any and all liability, claims, or rights of action alleging a violation of plaintiff's civil rights and any and all related state law claims, from the beginning of the world to the date of the General Release, including claims for costs, expenses, and attorneys' fees.

3. Plaintiff shall execute and deliver to the City of New York's attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph "2" above and an Affidavit of Status of Liens. Prior to tendering the requisite documents to effect this settlement, Medicare-recipient plaintiffs must obtain and submit a final demand letter from their Medicare provider(s) for the reimbursement of any conditional payments made for the injuries claimed in this matter. A Medicare Set-Aside Trust may also be required if future anticipated medical costs are found to be necessary pursuant to 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26.

4. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any

other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules or regulations of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations, except to enforce the terms of this agreement.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

6. Plaintiff agrees to hold harmless defendants regarding any past and/or future Medicare claims, presently known or unknown, in connection with this matter. If Medicare claims are not satisfied, defendants reserve the right to issue a multiparty settlement check naming the Medicare provider as a payee or to issue a check directly to the Medicare provider for the amount claimed in the Medicare provider's final demand letter.

7. This Stipulation of Settlement contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation of Settlement regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
_____, 2018

BELDOCK LEVINE & HOFFMAN LLP
Attorneys for Plaintiff
99 Park Avenue, PH/26th Fl.
New York, NY 10016

ZACHARY W. CARTER
Corporation Counsel of the
City of New York
Attorney for Defendants City of New York,
DiCecco, Hesterhagen, and Leite
100 Church Street, 3rd Floor
New York, New York 10007

By: _____
Gillian Cassell-Stiga
Attorney for Plaintiff

By: _____
Elizabeth Connelly
Senior Counsel

GENERAL RELEASE

KNOW THAT I, MELANIE LEGEND, date of birth _____, Social Security No. _____, plaintiff in the action entitled Melanie Legend v. City of New York, et al., 17 CV 2159 (NGG)(VMS), as “RELEASOR,” in consideration of the payment of Twenty-Five Thousand (\$25,000.00) DOLLARS to me by the City of New York, do hereby release and discharge defendants City of New York, Michael DiCecco, Robert Hesterhagen, Gary Leite, their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York or any entity represented by the Office of the Corporation Counsel, collectively the “RELEASEES,” from any and all liability, claims, or rights of action alleging a violation of my civil rights and any and all related state law claims, from the beginning of the world to the date of this General Release, including claims for costs, expenses, and attorneys’ fees.

IN FURTHER CONSIDERATION of the payment set forth above, RELEASOR hereby waives, releases and forever discharges RELEASEES from any and all claims, known or unknown, past and/or future conditional payments, arising out of the RELEASOR’S Medicare eligibility and receipt of Medicare benefits related to the claimed injury in this matter and/or arising out of the provision of primary payment (or appropriate reimbursement) including causes of action pursuant to 42 U.S.C. §1395y(b)(3)A of the Medicare, Medicaid and SCHIP Extension Act of 2007.

**THIS RELEASE MAY NOT BE CHANGED ORALLY. THE UNDERSIGNED HAS READ
THE FOREGOING RELEASE AND FULLY UNDERSTANDS IT.**

IN WITNESS WHEREOF, I have executed this Release this _____ day of _____, 2018.

Melanie Legend

STATE OF _____, COUNTY OF _____ SS.:

On _____, 2018 before me personally came Melanie Legend to me known, and known to me to be the individual described in, and who executed the foregoing RELEASE, and duly acknowledged to me that she executed the same.

NOTARY PUBLIC

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MELANIE LEGEND,

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY POLICE
DEPARTMENT OFFICER ("P.O.") ROBERT
HESTERHAGEN (SHIELD # 7727), P.O. GARY LEITE
(SHIELD # 27464), and SERGEANT MICHAEL DICECCO
(SHIELD # 3303), in their individual capacities,

Defendants.

**PLAINTIFF'S AFFIDAVIT
OF STATUS OF LIENS**

17 CV 2159 (NGG)(VMS)

STATE OF NEW YORK)
 : SS.:
COUNTY OF _____)

MELANIE LEGEND, being duly sworn, says:

SECTION I - Background Information (complete all items)

I am the plaintiff in the above-entitled action, and I reside at _____
_____.

My date of birth is ____/____/____.

☐ By checking this box I affirm that I am making this affidavit with full knowledge that the same will be relied upon by The City of New York, its agents, employees, and representatives in connection with settlement of this claim/action against them.

(Check one of the boxes below)

☐ My Social Security Number is _____.

☐ I have never applied for nor was ever issued a Social Security Number.

SECTION II – The City of New York Agencies or Departments (check one)

☐ I am not indebted to any department or agency of The City of New York and there are no liens outstanding.

☐ I have unpaid liens, violations or other debts owed to a department and/or agency of The City of New York. I expressly consent to the payment of those sums, or to the sums agreed upon by counsel, directly from the settlement proceeds.

List all liens, violations and/or other debts by providing the name of each City agency (e.g. Department of Finance; Department of Sanitation; Environmental Control Board) and the outstanding sums due below:

SECTION III - Medicaid or Public Assistance (check one)

☐ I have not received Medicaid or Public Assistance benefits.

☐ I have received Medicaid and/or Public Assistance benefits. The Human Resources Administration, Department of Social Services of The City of New York (“HRA”) has issued a Final Notice of Lien which provides a total amount due of \$_____ (*attach copy*). I understand that HRA will be paid that amount, or the amount agreed upon by counsel, directly from the settlement proceeds, and that the payment of an amount lesser than the final notice amount is a non-assertion of HRA’s lien against the proceeds of this settlement and shall not be deemed a waiver of the full amount owed.

SECTION IV - Medicare (check one)

Check one:

☐ I am not a Medicare beneficiary.

☐ I am a Medicare beneficiary. My Medicare # (Health Identification Claim Number – HICN) is: _____. The effective date of my Medicare coverage is _____. [Please provide a copy of your Medicare card]. I am aware of my obligation to reimburse my Medicare providers for any conditional payments made on my behalf that relate to the injury that is the subject of this lawsuit, as provided in the stipulation of settlement.

Medicare beneficiaries, check all that apply:

Since the date of the injuries alleged herein, I have been insured under traditional Medicare (known as Medicare Parts A and B). Medicare has confirmed that it will accept the total amount of \$_____.00 as full and final reimbursement of all Medicare payments made to date. [Attach copy of Medicare final demand letter]. I consent to the payment of that sum directly from the settlement proceeds.

Since the date of the injuries alleged herein, I have been insured under a Medicare Replacement Policy (known as a Part C Medicare Advantage Plan). My Medicare Advantage provider, _____, Policy # _____, has confirmed that it will accept the total amount of \$_____.00 as full and final reimbursement of all Medicare payments made to date [Attach copy of final demand letter and insurance card for each Medicare Advantage provider that has insured you since the date of injury claimed herein]. I consent to the payment of that sum directly from the settlement proceeds.

Since the date of the injuries alleged herein, I have been insured under a Medicare Part D prescription drug plan (PDP). My Part D prescription drug provider, _____, Policy # _____, has confirmed that it will accept the total amount of \$_____.00 as full and final reimbursement of all Medicare prescription payments made to date. [Attach copy of final demand letter and insurance card for each Part D provider that has insured you since the date of injury claimed herein]. I expressly consent to the payment of that sum directly from the settlement proceeds.

SECTION V - Child Support

☐ I am not in arrears in child support payments.

☐ I am in arrears in child support payments and expressly agree to the collection by the NYC Office of Child Support of all unpaid sums directly from the settlement proceeds.

SECTION VI - New York City Public Hospitals (check one)

☐ I am not indebted nor am I subject to liens by any City public hospital.

☐ ☐ I am indebted to _____ [City hospital] in the total lien amount of \$_____. I expressly consent to the payment of that sum directly from the settlement proceeds.

SECTION VII - Workers' Compensation/Disability Benefits (check one)

☐ I have not received Workers' Compensation or Disability Benefits and there are no liens for the same in this matter.

☐ I am indebted to _____ [for Workers' Compensation or Disability Benefits] in the total lien amount of \$_____. I expressly consent to the payment of that sum directly from the settlement proceeds.

MELANIE LEGEND

Sworn to before me this
____ day of _____, 2018

NOTARY PUBLIC

TYPE OR PRINT INFORMATION NEATLY. PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION.

Part I: Vendor Information

1. Legal Business Name: (As it appears on IRS EIN records, IRS Letter CP575, IRS Letter 147C -or- Social Security Administration Records, Social Security Card)

2. If you use DBA, please list below:

3. Entity Type (Check one only):

☐

Church or Church-Controlled Organization

☐

Personal Service Corporation

☐

Non-Profit Corporation

☐

Corporation/ LLC

☐

Government

☐

Coty of New York Employee

☐

Individual/ Sole Proprietor

☐

Trust

☐

Joint Venture

☐

Partnership/LLC

☐

Single Member LLC (Individual)

☐

Resident/Non-Resident Alien

☐

Non-United States Business Entity

☐

Estate

Part II: Taxpayer Identification Number & Taxpayer Identification Type

1. Enter your TIN here: (DO NOT USE DASHES)

| | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|
| | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|

2. Taxpayer Identification Type (check appropriate box):

☐

Employer ID Number (EIN)

☐

Social Security Number (SSN)

☐

Individual Taxpayer ID Number (ITIN)

☐

N/A (Non-United States Business Entity)

Part III: Vendor Addresses

1. 1099 Address:

Number, Street, and Apartment or Suite Number

City, State, and Nine Digit Zip Code or Country

2. Account Administrator Address:

Number, Street, and Apartment or Suite Number

City, State, and Nine Digit Zip Code or Country

3. Billing, Ordering & Payment Address:

Number, Street, and Apartment or Suite Number

City, State, and Nine Digit Zip Code or Country

Part IV: Exemption from Backup Withholding and FATCA Reporting (See Instructions)

Exemption Code for Backup Withholding _____

Exemption Code for FATCA Reporting _____

Part V: Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct Taxpayer Identification Number, and
2. I am not subject to Backup Withholding because: (a) I am exempt from Backup Withholding, or (b) I have not been notified by the IRS that I am subject to Backup Withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to Backup Withholding, and
3. I am a US citizen or other US person, and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.

Sign

Here:

Signature

Phone Number

Date

Print Preparer's Name

Phone Number

Contact's E-Mail Address:

FOR SUBMITTING AGENCY USE ONLY

Submitting Agency Code: _____

Contact Person: _____

Contact's E-Mail Address: _____

Telephone Number: () _____

Pavee/Vendor Code: _____

DO NOT FORWARD W-9 TO COMPTROLLER'S OFFICE. AGENCIES MUST ATTACH COMPLETED W-9 FORMS TO THEIR FMS DOCUMENTS.